

Notice of Allowability

Application No.

09/982,272

Examiner

Andrew C. Flanders

Applicant(s)

SUEYOSHI ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final amendment filed 18 November 2005.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Shahpar Shahpar on 07 December 2005

The application has been amended as follows:

Please amend the final line of claim 1 to read as follows:

the first data unit and the second data unit originates from hierarchy-encoded data unit.

Please amend the final line of claim 7 to read as follows:

the first data unit and the second data unit originates from hierarchy-encoded data unit.

Allowable Subject Matter

Claims 1 – 7 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding **Claims 1 and 7**, Hunter discloses:

a read section for reading a first data unit from a recording medium having the first data unit recorded thereon (i.e. storing a requested download on a storage medium col. 15 lines 5 – 17);

a communication section for receiving a second data unit in accordance with a communication condition with a server (i.e. receiving a copy of a packet via a satellite communication (col. 14 lines 66 – 67 and col. 15 lines 1 – 5);

a synthesis section for, when the communication cannot receive the second data unit in accordance with the communication condition (i.e. during a rainstorm or satellite interruption col. 15 lines 1 – 5) outputting the first data as a first output data unit (i.e. a customer is informed of the quality of download and the customer may choose to preview the corrupted version or even burn it to a CD col. 15 lines 18 – 24);

a reproduction section for reproducing the first output data unit and the second output data unit (i.e. the customer can burn a CD of the imperfect quality, or burn a CD of the fixed version after the second transmission col. 15 lines 10 – 17);

wherein the first data unit and the second data unit are constructed so that a sound quality of a reproduction of the second output data unit is higher than a sound quality of reproduction of the first output data unit (i.e. informing the customer of the

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imperfect first transmission and waiting for a second transmission to sort part of the second transmission and then selecting good packets of bits to make up the final copy); and

the first data unit and the second data unit originates from a common hierarchy-encoded data unit (it is inherent that the downloaded and stored song (first data unit) and the replacement packets (second data unit) would have to originate from the same song stored at the remote location. If they were not, when repairing the bit losses, the songs would not playback correctly after repair).

However, Hunter, considered to be the closest prior art fails to explicitly disclose when the communication section can receive the second data unit in accordance with the communication unit synthesizing the first data unit and the second data unit so as to generate a synthesis data unit and outputting the synthesis data unit as a second output data unit.

While Hunter does disclose synthesizing the first data unit and the second data unit so as to generate a synthesis data unit and outputting the synthesis data unit as a second output data unit (i.e. repairing data loss might be accomplished by replacing an occasional packet by the receiver asking for a copy of the packet via a satellite col. 14 lines 66 – 67 and col. 15 lines 1 – 5), the art does not disclose doing it when the communication section can receive the second data unit in accordance with the communication unit.

As Applicant has pointed out "The decision of whether to output a second (better quality) copy is dependent upon whether the original copy is of acceptable quality)"

Thus Hunter does not depend on the condition of the communication condition to output the synthesized data unit but rather the quality of the data unit.

As such, the claims are considered to contain allowable subject matter.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

acf



HUYEN LE
PRIMARY EXAMINER